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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,572	02/04/2004	Daniel Ebi	09307.0019	3718
21127 7590 05/03/2007 RISSMAN JOBSE HENDRICKS & OLIVERIO, LLP ONE STATE STREET SUITE 800 BOSTON, MA 02109			EXAMINER LEWIS, RALPH A	
			ART UNIT 3732	PAPER NUMBER
			MAIL DATE 05/03/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/771,572

Applicant(s)

EBI ET AL

Examiner

Ralph A. Lewis

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-10 and 12-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 12-19, 21 and 26-29 is/are rejected.
- 7) ☒ Claim(s) 20, 22-25, 30-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **Objection to the Claims**

Claims 1 and 3 are objected to under 37 CFR 1.75(a) for failing to particularly point out and distinctly claim the subject matter which applicant regards as his/her invention.

The "screw-in surfaces" language that is used to apparently refer to a gripping surface is confusing. Applicant is encouraged to use more conventional language in the specification as well as the claims.

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 8, 12, 14-18, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Gittleman (US 6,508,650).

Gittleman discloses an extension piece 65/50 for a dental implant 80 having a head part 65 and threaded stem 50 which is to be screwed into the dental implant. The

upper octagonal edge of facets 58 serve as a reference form for defining the circumferential positioning of the extension piece 65/50 (note column 3, lines 10-13). The facets 58 with dimples 60 are capable of being gripped and meet the "screw-in surface" structural limitations of claim 1. In regard to claim 2, note mating shoulder 57. In regard to claim 3, note transfer aid 66, which snaps to first contour 60. In regard to claim 8, note the embodiment in Figures 8 and 9 wherein transfer aid 66 includes octagonal transfer surface which complements the octagonal reference form on the extension piece 95, base plate 67, 68, and circular lip 107 which can be snapped onto the first contour 105 of the extension piece. In regard to claim 17, note the general discussion a column 1, lines 45-64 and column 3, lines 54-62 wherein the implant analog is equivalent to applicant's claimed "manipulation implant."

Claims 1-4, 6-10, 12, 13, 15-18, 21, 27 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Porter et al (US 6,758,672).

Porter et al disclose an extension piece 80 for a dental implant 10. The Porter et al extension piece includes a head part 82 and threaded stem 88. The extension piece 80 includes a reference surface 87 that defines the circumferential position of the extension piece. The upper portion of the surface 87 in Figure 4d meets the "reference form" limitation and the lower portion of surface 87 in the Figure is capable of being gripped for screwing in the extension piece 80, thus meeting the "screw-in surface" limitation. In regard to claim 3, note transfer aid 150. In regard to claim 4, see cut surface 87 of substantially semi-circular cylinder 80.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 26, 19 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gittleman (US 6,508,650).

In regard to claims 7 and 26, the selection of conventional dental materials for the dental extension piece of Gittleman would have been obvious to one of ordinary skill in the art as a matter of routine in practicing the Gittleman invention.

In regard to claims 19 and 29, Gittleman discloses at column 3, lines 57-59 the screwing the extension piece to the implanted dental implant where it is unscrewed after the impression is taken and then screwed on to the implant analog (equivalent to applicant's claimed "manipulation implant"). Gittleman does not disclose the relative torques to which the extension piece is screwed into the implant and the implant analog. Simply by chance, unless one was using a precision torque wrench one would likely tighten the extension piece to the implant at a greater torque nearly half the time. Moreover, if one was taking care and wanted to ensure an accurate impression, one would tighten the extension piece to the implant to ensure no movement between the extension piece and the implant. To have merely made such a tight connection in order

to ensure the accuracy of the impression would have been obvious to one of ordinary skill in the art.

### **Allowable Subject Matter**

Claims 20, 22-25 and 30-35 are objected to as being dependent on a rejected base claim but would be allowable if rewritten in independent form to include all of the limitations of the claims from which they depend.

### **Response to Applicant's Remarks**

Applicant's remarks of February 9, 2007 have been fully considered. Applicant argues that the applied references lack the claimed "screw-in surface" which according to the specification is nothing more than a surface of the extension that can be gripped by a tool. Adding such a limitation is of little patentable significance since nearly any surface can be gripped by a tool. In regard to claim 29, rewritten in independent form, it is noted that applicant left out limitations which were previously present in dependent claim 19.

### **Action Made Final**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis  
April 30, 2007

  
Ralph A. Lewis  
Primary Examiner  
Au 3732